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6 Attorney for Debtor/Plaintiff - Censo, LLC.

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

8 In re:) Case No. 19-16636-MKN
 9)
 10 CENSO, LLC.,) Chapter 11
 11)
 12) Debtor.)
 13)
 14)
 15 CENSO, LLC.,)
 16 a Nevada Limited Liability Company) Adv. Case No.
 17)
 18 Plaintiff,)
 19 vs.)
 20)
 21 NEWREZ, LLC., d/b/a ShellPoint Mortgage)
 it's assignee and or successors,)
 22 BANK OF AMERICA, N.A.)
 23 FEDERAL NATIONAL MORTGAGE)
 24 ASSOCIATION, DOES I - through X and)
 ROES 1-10, inclusive.)
 25)
 26 Defendants.)
 27)
 28)

**COMPLAINT TO DETERMINE EXTENT AND
 VALIDITY OF LIEN PURSUANT TO BANKRUPTCY RULE 7001(2)**

20 COMES NOW, Plaintiff, CENSO, LLC., by and through its attorney, COREY B. BECK,
 21 ESQ., of THE LAW OFFICE OF COREY B. BECK, P.C., hereby pleads alleges and avers as
 22 follows:

23

FACTS

- 24
- 25 1. Plaintiff, Censo, LLC., (hereinafter "Censo") is a Nevada Limited Liability
 26 Corporation. Censo, LLC., is the owner of the property at issue in this lawsuit.

2. 11411 Allerton Park Drive, #411 Las Vegas, NV 89109 is the subject property, which will be referenced in this lawsuit.
 3. Defendant, NewRez, LLC., d/b/a ShellPoint Mortgage Servicing is a limited liability corporation doing business in the State of Nevada.
 4. Defendant, Bank of America, N.A., is out of state corporation doing business in the State of Nevada.
 5. Plaintiff has information and belief that Bank of America, N.A., is financial institution that is owner of Deed of Trust at issue. If more information becomes available, undersigned counsel will amend to name successor bank as party to lawsuit.
 6. Defendant, Federal National Mortgage Association has interest in subject property because Deed of Trust is a “Fannie Mae” loan.
 7. This adversary proceeding is a “core proceeding” pursuant to 28 U.S.C. §157(b)(2)(A) and (I) and arises and is related to the Chapter 11 case.
 8. Venue is proper in this district pursuant to 28 U.S.C. §1409(a), because the Chapter 11 case was filed in this district and is pending before this court. NewRez, LLC., d/b/a ShellPoint Mortgage Servicing entered appearance in this case by filing Motion for Relief From Stay on May 18, 2020.

GENERAL ALLEGATIONS

1. Ke Aloha Holding, LLC., purchased subject property at a HOA foreclosure sale.
See Exhibit "1" - Foreclosure Deed.
 2. Seller Homeowner's Association was West Charleston Lofts Owners Association.
 3. Melani Schulte was principal of Ke Aloha Holding, LLC., as well as successor corporations holding title to subject property including Censo, LLC.
 4. On December 31, 2014, Ke Aloha Holding, LLC., transferred title of subject property to Ke Aloha Holdings Series II. *See Exhibit "2" - Quitclaim Deed.*
 5. United States District Court lawsuit James Pengilly v. Ke Aloha Holdings et al

1 (HOA foreclosure litigation) Case # 2:14-cv-01463-RFB-NJK determined that Ke
2 Aloha Holdings was owner of subject property to the Deed of Trust. *See Exhibit*
3 “3” - *October 31, 2019 Order in Federal District Court case.*

- 4 6. Ke Aloha was owner subject to mortgage because Fannie Mae had interest in
5 Deed of Trust.
6 7. That prior owner of property - James Pengilly - purposefully damaged loft when
7 property was awarded to Ke Aloha.
8 8. That Censo, LLC., has spent \$133,000.00 in repairs and improvements to subject
9 property.

10 I. **NewRez, LLC.,’s secured claim should not be allowed pursuant to §506(d)**
11 **(unperfected) and Bankruptcy Rule 7001(2). Court should determine that NewRez,**
12 **LLC.,’s claim is unsecured because of Deed of Trust is not properly perfected.**

- 13 9. Initial Deed of Trust on subject property contained West Charleston Loft language
14 Pengilly/Bank of America. *See Exhibit “4” - 2007 Deed of Trust - Schedule A.*
15 10. There is subsequent Bank of America/Pengilly Deed of Trust which is controlling
16 said property.
17 11. The subsequent Pengilly/Bank of America Deed of Trust omits the West
18 Charleston Loft language contained in prior Deed of Trust. *See Exhibit “5” -*
19 *March 29, 2010 Deed of Trust - Exhibit A.*
20 12. Plaintiff alleges this information is material as all language containing legal
21 description of West Charleston Lofts was omitted.
22 13. Deed of Trust as issue also contains incorrect address. The correct address is
23 11411 Allerton Park Drive, #411 Las Vegas, NV 89109. The address in the Deed
24 of Trust at issue notes address 1411 Allerton Park Drive, #411 Las Vegas, NV
25 89109. *See Exhibit “5” - March 29, 2010 Deed of Trust - Page 4.*
26 14. Censo asserts that “reasonable” inspection of county recorder would not properly
27 reference subject property because “material language” giving notice that subject

1 property is part of West Charleston Lofts is omitted.

- 2 15. In addition, search of county recorder would lead person undertaking “reasonable
3 inspection” to wrong property as physical property address is incorrect.
4 16. Defendant’s claim as well as Deed of Trust are unperfected as “reasonable
5 inspection” of county recorder would not properly reveal the existence of Deed.

6 **RELIEF REQUESTED**

7 WHEREFORE, Debtor/Plaintiff prays for Judgement as follows:

- 8 1. Order that Deed of Trust is unperfected;
9 2. Order that Defendant’s claim is unsecured;
10 3. Order that Defendant’s secured claim (lien status) be disallowed;
11 4. Reasonable attorneys’ fees and Costs of Suit;
12 4. For any and all such other and further relief as the Court may deem just.

13 DATED this 7th day of July, 2020.

14 /s/ COREY B. BECK _____
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